

# **PUBLIC EMPLOYEES, PUBLIC RESOURCES AND POLITICAL ACTIVITY**

*A Campaign Finance Guide for  
State, County and Municipal Employees*



Office of Campaign and Political Finance  
Commonwealth of Massachusetts

This brochure is designed to introduce state, county, city and town employees to the provisions of Massachusetts General Laws Chapter 55 regulating the political activities of public employees. The brochure addresses issues concerning Massachusetts public employees only. Employees of a state, county or municipal agency that also receives federal funding may have additional restrictions under the federal Hatch Act. For more information on the Hatch Act consult the U.S. Office of the Special Counsel in Washington, D.C. at (800) 85-HATCH (800-854-2824).

The Office of Campaign and Political Finance ("OCPF") is empowered to administer and enforce M.G.L. Chapter 55, the Commonwealth's campaign finance law. The office is available to assist public employees in complying with the provisions of this statute.

This publication is only meant to be an introductory guide to the campaign finance laws governing public employees, not a substitute for these laws. It is the responsibility of all those participating in political activities in Massachusetts, especially all public employees, to become knowledgeable of the provisions of these laws and regulations. In addition, administrative policies of your agency or department as well as local charters may regulate the activities of a public employee and, therefore, you should review plans for political activity with your agency or town counsel. Violations of the law carry serious penalties of fines, imprisonment or both. For additional information, please contact:

**Office of Campaign and Political Finance**  
One Ashburton Place, Room 411  
Boston, MA 02108  
(617) 727-8352  
(800) 462-OCPF

## **About The Office of Campaign and Political Finance**

Chapter 1173 of the Acts of 1973 strengthened the state campaign finance laws and established the Office of Campaign and Political Finance. While the 1970s saw a push for reforms in campaign finance disclosure laws all across the country, portions of the campaign finance law were on the books in Massachusetts as early as 1884. Those laws, originally legislated under Chapter 320 of the Acts of that year, provide for restrictions on and protections for public employees and are discussed in detail in this brochure.

## Restrictions on Political Activities

OCPF administers sections 13 through 17 of M.G.L. Chapter 55. These laws on public employees' political activity were designed to:

- Protect public employees from being coerced into providing political contributions or services in their employment.
- Separate governmental activity from political campaign activities.
- Protect individuals doing business with the state from being coerced into contributing to any political fund or rendering any political service.

The following is a summary of M.G.L. Chapter 55, sections 13 through 17. The complete text of these laws can be found at the end of this brochure.

### Section 13 Employees Prohibited from Soliciting/Receiving Contributions

Section 13 prohibits paid, appointed state, county, city or town employees from directly or indirectly soliciting or receiving any contributions or anything of value for **any** political purpose.

This prohibition applies to public employees:

- at any time - during working hours and non-working hours.
- involved with any candidate or political committee, including PACs and ballot question committees.
- at any level of government, including boards, commissions and other public authorities.

This prohibition does **not** apply to a public employee:

- who is an elected official, unless such official also is an appointed public employee.
- who is an uncompensated individual serving in a public position.
- who is raising money for humanitarian, charitable or educational causes.
- or to the political committee organized on behalf of the public employee.

If, however, a public employee candidate has a committee organized on his/her behalf, the committee may **not** solicit or receive any contribution from any individual who has an interest in any matter in which the public employee candidate participates or who is the subject of such employee's official responsibility. For example, the appointed head of a state agency who runs for public office may not solicit or receive contributions from any employee at that same state agency since those employees are the subject of the public employee candidate's official responsibility.

Examples of **PROHIBITED** solicitation or receipt include:

- Handing out leaflets that ask for contributions to support a candidate or ballot question;
- Hosting a political fundraising event;
- Selling or distributing tickets for a fundraising event to benefit a political candidate or political committee and soliciting attendance at such an event by telephone or otherwise;
- Accepting donations or payment for admission to a fundraising event to benefit a political candidate or a political committee or accepting money at the door of a political fundraising event.
- Signing a fundraising letter on behalf of a candidate or political committee;
- Permitting your name to be listed on stationery as an officer, member or supporter, if the stationery is used to solicit funds for a political purpose;
- Providing political fundraisers with the names of individuals who would then be solicited;
- Providing general advice to a political campaign with regard to fundraising strategies.

Public employees are able to engage in a variety of other campaign activities without violating the provisions of section 13. Examples of **ALLOWABLE** activity include:

- Making a contribution to a candidate or political committee or attending a political fundraiser;
- Serving as a member of a political committee;
- Meeting with other public employees for political purposes, where no fundraising activity takes place;
- Raising money for humanitarian, charitable or educational causes.

In addition, public employees may run for public office. However, if you are a public employee and you plan to raise money as part of your campaign for public office, you **MUST** organize a political committee and have the political committee handle all fundraising activities.

Also, if a political committee is established on behalf of a public employee candidate, it may **NOT** solicit a contribution from any individual who has an interest in any matter in which the public employee participates as a public employee or which is the subject of the employee's official responsibility.

#### **Section 14 Soliciting Contributions in Public Buildings Prohibited**

Section 14 prohibits **anyone** from soliciting contributions in a building occupied for **any** state, county or municipal purposes.

This prohibition applies to soliciting contributions for any political purpose in such places as the State House, city and town halls, public schools, police or fire stations, municipal or county offices, and the public property immediately surrounding any public building.

## **Section 15 Contributions by Public Officials**

This section allows all elected and appointed public officials of the Commonwealth, a county or a city or town to make political contributions to any candidate or political committee. This section also allows **unpaid** public officials to serve as treasurers of political committees. Elected officials, however, may not serve as treasurers of PACs.

Public officials may **not** deliver to any other public official any money or item of value for a political object -- e.g., a payment for supporting legislation or making a personnel appointment.

## **Section 16 Public Officers and Employees Not Required to Contribute or Render Political Service.**

Section 16 protects public employees from being required to make contributions or render political services in exchange for their employment, and protects them from retribution for failing to do so.

## **Section 16A Persons Doing Business With the Commonwealth Not Obligated to Contribute to Any Political Fund.**

This section protects individuals doing business with the Commonwealth from having to render a political service or make a political donation in exchange for doing business with the state.

## **Section 17 Coercion of Public Officers or Employees Prohibited**

This section provides additional protection against retribution to an employee or officer who fails to give or withholds a contribution or who contributes to an opposition candidate or cause.

## **Public Resources**

The state's Supreme Judicial Court ruled in *Anderson v. City of Boston* (1978) that public resources may not be used to support a ballot question. The office has applied this principle to prohibit the use of public resources for any political campaign purpose whatever. Public employees, as well as other persons, are prohibited from using any public resources for political campaign purposes.

## What are "public resources"?

Public resources include:

- Staff time. When public employees are on the job, they are prohibited from engaging in political campaign activity. This includes activities such as holding campaign signs, stuffing or addressing envelopes with campaign literature, or in any way soliciting votes or funds for political purposes. **In addition, paid appointed public employees are prohibited from political fundraising at any time, whether at work or not.**
- Office and other equipment. Copy machines, fax machines, typewriters, telephones, computers, cars and trucks are some examples of taxpayer funded equipment which fall under this category.
- Public buildings. Using a public building or any part thereof for political campaign purposes is prohibited, **unless** equal access to the building is provided to any group wishing to use it, under the same terms and conditions as all other groups. **Under no circumstances** may any political fundraising go on in a public building or any part of any building occupied for a state, county or municipal purpose.
- State, county or municipal seals. Public seals are considered public resources and may not be used for political campaign purposes. This means using public seals on items such as letterhead or envelopes for political campaign purposes is strictly prohibited.

## What are "political campaign purposes"?

In the context of M.G.L. Chapter 55, "political campaign purposes" is broadly defined and includes promoting or opposing a candidate's nomination or election to public office or a political party office such as a ward, town or state committee; promoting or opposing a vote on a ballot question; or aiding, promoting or antagonizing the interests of a political party.

"Political campaign purposes" does not include lobbying boards or other political bodies.

## May public officials take positions on ballot questions?

Public resources may not be used to prepare or distribute materials which promote, oppose or otherwise seek to influence a ballot question.

However, if policy-making public officials were not allowed to discuss officially or to take positions on ballot questions which affect the public they serve they would be hampered in that service. Therefore, policy-making officials may discuss officially ballot questions which affect their agencies or a segment of the population which their

agencies serve. Policy-making officials include elected officials, commissioners, cabinet secretaries, and department and agency heads at the state, county and municipal levels.

In addition, policy-making public officials may use resources of their offices - within limits and under certain circumstances - to **prepare** analyses of ballot questions, answer questions regarding ballot questions, and direct staff to help prepare such materials. They are not, however, allowed to **distribute** such materials to voters or a class of voters at public expense.

It is also important to note that the Secretary of the Commonwealth's Elections Division has advised that public officials may not publish and distribute so-called "voter information" materials, even if they are truly impartial, at public expense unless a state statute expressly authorizes it.

For more information on the rights of or limitations on public policy making officials and the distribution of voter information, see OCPF Interpretative Bulletin IB-92-02 or the joint memorandum of the Secretary of the Commonwealth and OCPF dated March 1996 entitled "Preparation and Distribution of Written Material Relating to Proposition 2 ½ and Other Ballot Questions."

## **Seeking an Advisory Opinion**

Anyone wishing to receive guidance on his or her own campaign finance activities should contact the office prior to undertaking a particular activity. This office issues written advisory opinions based on written requests describing specific facts and circumstances. The office will issue opinions only on prospective activities.

If you have any questions concerning advisory opinions, please contact the office. You may also obtain informal, verbal advice by calling the office at the numbers listed in this brochure.

In addition to specific advisory opinions, from time to time the Director of OCPF issues Interpretive Bulletins setting policy guidelines on a variety of subjects. These documents are publicly available from OCPF and provide helpful guidance to public employees.

## **Filing a Complaint**

If you have reason to believe that a violation of the campaign finance laws has occurred, you may file a complaint with this office. OCPF reviews all matters brought to its attention, regardless of the source of the complaint. The office keeps the identities of all complainants confidential.

OCPF will not comment on any matter that is under review or investigation. Consequently, an individual making a complaint will not receive periodic information on the status of the complaint. However, the complainant will receive notice of any public disposition of a case.

This office welcomes individuals with information concerning possible violations of the campaign finance law to call or write OCPF.

## **Frequently Asked Questions**

**"I am a public employee. May I..."**

**Q1. "...ask a friend or relative to purchase a ticket to a fundraiser for a candidate for state representative?"**

A1. No, section 13 prohibits this activity.

**Q2. "...hold a fundraiser in my home for a local selectman's re-election?"**

A2. No, section 13 prohibits this activity.

**Q3. "...make a political donation?"**

A3. Yes. If the candidate is a public employee or an incumbent elected official, you must make the contribution to the political committee organized on the candidate's behalf, not directly to the candidate. If you are a city or town employee you should also be sure that your local charter allows this.

**Q4. "...give permission for my name to appear on a fundraising letter either in the letterhead, text, or as the signatory of such letter soliciting for a candidate?"**

A4. No, this activity is not allowed under section 13.

**Q5. "...give permission for my name to appear in the body of a fundraising letter for my own candidacy?"**

A5. Yes, as long as you do not appear to be soliciting in the letter and you do not sign such a letter.

**Q6. "...have a committee use the State House or a city or town hall as an address to send a donation for a political committee?"**

A6. No, this activity is prohibited under section 14.



**Q7. "...run for public office?"**

A7. While M.G.L. Chapter 55 does not prevent a public employee from running for public office, it does prohibit fundraising for any candidate. If you run for office, you must organize a political committee and have that committee handle fundraising activities. You should also check with your agency or city/town for further guidance or restrictions.

**Q8. "...be the treasurer of my local town committee?"**

A8. No, an appointed public employee is prohibited from being the treasurer of any political committee.

**Q9. "...be a member of a political committee or work for a political committee or a candidate if I were not the treasurer of the committee."**

A9. Yes, as long as you are not involved in the fundraising aspects of the committee there are no prohibitions on you being a member or working on a candidate's or a political committee's behalf.

**Q10. "...be forced to make a political contribution or perform any sort of political service?"**

A10. No, sections 16 and 17 protect public employees against coercion.

**Q11. "If I am an appointed state employee, but also a selectman in my home town, do the limitations on fundraising in section 13 apply to me?"**

A11. Yes, while elected public officials are exempt from section 13, its fundraising restrictions would still apply to you for your campaign or any other political campaign because of your appointed public employment.

**Q12: "I am an unpaid member of a city board. Are my political fundraising activities still limited by the campaign finance law?"**

A12: No. The campaign finance law allows you or any other appointed, uncompensated "person in the service" of the Commonwealth or any city or town to solicit, receive or make campaign contributions to candidates or political committees. You may also serve as an officer, including a treasurer, of a political committee. The campaign finance law does, however, prohibit you or any other person from soliciting contributions in a public building. In addition, the campaign finance law protects you and others from being removed from office for making or not making a political contribution or for rendering or not rendering a political service, such as actively supporting a candidate or committee.

**Q13. "If I don't make a contribution if asked, or make a contribution to a candidate against the wishes of my supervisor, may I be discharged, demoted or promoted?"**

A13. No, section 17 protects public employees from such action.

**Q14. "May I use paper and photo copying equipment in my school office to print up flyers asking people to vote for a referendum question?"**

A14. No, the use of public resources to promote or oppose a ballot question, or any matter which appears on an election ballot, is prohibited.

**Q15. "I am an elected selectman. May I speak out in favor of or opposition to a ballot question and ask my aide to prepare an analysis of how that question might affect the town I represent?"**

A15. Yes, provided that no public resources are used to distribute such analysis to voters.

## **Mass. General Laws Chapter 55 Sections 13-17**

**Section 13.** No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever, but this section shall not prevent such persons from being members of political organizations or committees. The soliciting or receiving of any gift, payment, contribution, assessment, subscription or promise of money or other thing of value by a non-elected political committee organized to promote the candidacy for public office of a person so employed for compensation by the commonwealth or any county, city or town, shall not be deemed to be a direct or indirect solicitation or receipt of such contribution by such person; provided, however, that no such gift, payment, contribution, assessment, subscription or promise of money or other thing of value may be solicited or received on behalf of such a person from any person or combination of persons if such person so employed knows or has reason to know that the person or combination of persons has an interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is the subject of his official responsibility.

Any appointed officer or employee convicted of violating any provision of this section may be removed by the appointing authority without a hearing.

Violation of any provision of this section shall be punished by imprisonment for not more than one year or by a fine of not more than \$1,000.

**Section 14.** No persons shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for the purposes set forth in section thirteen.

Any appointed officer or employee convicted of violating any provision of this section may be removed by the appointing authority without a hearing.

Violation of any provision of this section shall be punished by imprisonment for not more than one year or by a fine of not more than \$1,000.

**Section 15.** No officer, clerk or other person in the service of the commonwealth or of any county, city or town shall, directly or indirectly, give or deliver to an officer, clerk or person in said service, or to any councillor, member of the general court, alderman, councilman or commissioner, any money or other valuable thing on account of, or to be applied to, the promotion of any political object whatever.

Nothing in this section shall be construed to prevent any officer, clerk or other person in the public service of the Commonwealth, or of any county, city or town from making a contribution to a candidate or to an elected or non-elected political committee.

Violation of any provision of this section shall be punished by a fine of not less than \$100 nor more than \$1,000.

**Section 16.** No person in the public service shall, for that reason, be under obligation to contribute to any political fund, or to render any political service, and shall not be removed or otherwise prejudiced for refusing to do so.

Violation of any provisions of this section shall be punished by a fine of not less than \$100 nor more than \$1,000.

**Section 16A.** No person doing business with the commonwealth shall for that reason, be under obligation to contribute to any political fund or to render any political service, and shall not be otherwise prejudiced for refusing to do so.

Violations of any provisions of this section shall be punished by a fine of not less than \$100 nor more than \$1,000.

**Section 17.** No officer or employee of the commonwealth or of any county, city or town shall discharge, promote, or degrade an officer or employee, or change his official rank or compensation, or promise or threaten so to do, for giving, withholding or neglecting to make a contribution of money or other valuable thing for a political purpose.

Violation of any provision of this section shall be punished by a fine of not less than \$100 nor more than \$1,000.

***Campaign Finance Guides available from OCPF:***

Statewide, County and Other “Depository” Candidates  
General Court (Legislative) Candidates  
Municipal Candidates  
State Ballot Question Committees  
Municipal Ballot Question Committees  
Political Action Committees and People’s Committees  
Ward, Town and City Political Party Committees  
Public Employees, Public Resources and Political Activity

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